

HOUSE BILL REPORT

HB 2914

As Reported by House Committee On:

Children & Family Services

Appropriations

Title: An act relating to compliance with certification standards for providers of residential services and support to persons with developmental disabilities.

Brief Description: Regarding compliance with certification standards for providers of residential services and support to persons with developmental disabilities.

Sponsors: Representatives Roberts, Haler, Darneille, Kagi, Dickerson, Morrell, Hankins, Green and Simpson.

Brief History:

Committee Activity:

Children & Family Services: 1/25/06, 1/26/06 [DPS];

Appropriations: 2/3/06, 2/4/06 [DP2S(w/o sub CFS)].

Brief Summary of Second Substitute Bill

- Provides the Department of Social and Health Services with additional means of enforcing certification standards for providers of residential services and support to persons with developmental disabilities.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille, Dickerson, Dunn, Haler and Pettigrew.

Staff: Sydney Forrester (786-7120).

Background:

A *developmental disability* is a disability that:

- (1) originates before the age of 18 years;
- (2) is attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition closely related to, or requiring treatment similar to that required by, mental retardation;
- (3) is expected to continue indefinitely; and

(4) constitutes a substantial handicap.

The Department of Social and Health Services (DSHS) is authorized to contract for a variety of services to persons with developmental disabilities. Residential services and support includes a wide array of supported living services, many of which may be provided in the persons own home. Providers of supported living services must be certified by the DSHS. Certification differs from licensing, primarily because the certification process assesses the ability and appropriateness of the agency and its employees to provide particular services, whereas licensure focuses on a specific facility that provides services at a particular location.

For licensed facilities, the DSHS has comprehensive compliance enforcement authority. For certified providers, however, the DSHS does not have the same authority to enforce compliance with certification standards.

Summary of Substitute Bill:

The DSHS is authorized to take one or more actions when a certified provider fails to comply with certification requirements or the certification process, or with the mandatory reporting requirements under the vulnerable adult statute. The DSHS also can take action if a certified provider interferes with an inspection or knowingly provide false information during the certification process or during an investigation.

Actions the DSHS is permitted to take are:

1. decertifying or refusing to renew the certification;
2. imposing conditions on a provider's certification status;
3. imposing civil fines of up to \$300 per day per violation;
4. suspending referrals to the providers; or
5. requiring the provider to implement a corrective action plan.

When determining what enforcement action to take, the DSHS must select action commensurate with the seriousness of the threat or harm to the persons being served. For violations that remain uncorrected or are repeated or pervasive, the DSHS may take actions that are more severe.

The DSHS is directed to adopt rules governing criteria to be used for the selection and implementation of enforcement actions. Rules must include a process for informal review. The Administrative Procedures Act applies to the enforcement actions authorized. The effective date of enforcement actions will not be suspended or delayed pending an administrative hearing or review except for reviews or hearing on civil fines.

Substitute Bill Compared to Original Bill:

The maximum amount of an enforcement fine that may be levied is reduced from \$500 to \$300 per day per violation. The DSHS is directed to include a process for an informal review in rules developed to implement the enforcement authority.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) This bill goes a long way to assure we have good quality services for persons with developmental disabilities. It provides an array of tools for the Department of Social and Health Services to use to enforce certification standards. It provides the flexibility to deal with certification compliance issues and allows us to take quicker action to improve the care of persons with developmental disabilities. We believe the ability to levy fines is an important tool. It may be the only way to get a provider to pay attention to compliance requirements.

(With concerns): We would like to see an informal review process included that is the same as is provided for nursing homes. Having a process for dispute resolution is important.

We should not allow fines because nonprofit providers are already underfunded and operate on a zero margin. There are no resources to pay fines. They will be very cumbersome for the nonprofit providers who do not take private pay customers and receive only state reimbursements. We also believe the same enforcement authority should apply to the services provided directly by the state.

Testimony Against: None.

Persons Testifying: (In support) Representative Roberts, prime sponsor; Ed Holen, Developmental Disability Council; Joyce Stockwell, Department of Social and Health Services; and Sue Elliott, Arc of Washington State.

(With concerns) Sylvia Fuerstenberg, Community Residential Services Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Children & Family Services. Signed by 30 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

Staff: Amy Hanson (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Children & Family Services:

The Appropriations recommendation removes legislative findings regarding the vulnerability of individuals with developmental disabilities to abuse by service providers.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.